

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

— — — — —)
UNITED STATES OF AMERICA)
) Criminal No.
v.) 3:19CR130
)
OKELLO T. CHATRIE) October 22, 2020
— — — — —)

COMPLETE TRANSCRIPT OF ZOOM STATUS HEARING
BEFORE THE HONORABLE M. HANNAH LAUCK
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 (The proceedings in this matter commenced at
2 12:41 p.m.)

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4 THE CLERK: Case No. 3:19CR130, United States
5 of America versus Okello T. Chatrie. The United
6 States is represented by Ken Simon and Peter Duffey.
7 The defendant is represented by Laura Koenig and
8 Michael Price.

9 And, I'm sorry, for the United States we also
10 have Nathan Judish.

11 For the A.G.'s Office, we have Donald Jeffrey
12 and Rachel Yates.

13 Are counsel ready to proceed?

14 MR. SIMON: The United States is ready, Your
15 Honor.

16 MS. KOENIG: The defense is ready, Your
17 Honor.

18 THE COURT: All right. Well, I appreciate
19 your appearing. And the first thing I want to make
20 clear is, really, all I want to address today is
21 whether pursuant to my October 16th order you all have
22 been able to reach a stipulation that then I could
23 utilize to make necessary findings on November 17th.

24 But having said that, Ms. Koenig, are you
25 waiving appearance of your client here?

1 MS. KOENIG: I am, Your Honor, and I had
2 contacted Ms. Hancock because I didn't -- I had
3 anticipated perhaps this was a more in depth hearing
4 and I had just asked to see if Mr. Chatrie -- because
5 I noticed that the jail person wasn't on the email
6 list for the ZOOM link, and Ms. Hancock indicated no,
7 no, no, this was going to be -- the intention was that
8 it would be a much shorter hearing. So on that
9 understanding, similar to other conference calls we
10 have just with lawyers to deal with a small matter, we
11 will waive Mr. Chatrie's appearance on that basis.

12 THE COURT: All right. And I need to put on
13 the record, because we do it in the all these ZOOM
14 hearings, that our Local Criminal Rule 53 and Chief
15 Judge Davis's General Order 11, 2020-11, prohibit any
16 kind of recording of this event, either audio or
17 visual. We are treating this these as any kind of
18 court appearance, and we need just one court record,
19 which Ms. Daffron is preparing for us.

20 Now, Mr. Price, I understand there are folks
21 who are trying to join in, and I do want to be clear
22 that there is no prohibition against that. We just
23 need to have the folks on the record because of the
24 nature of the ZOOM communication. They are certainly
25 welcome to join, but we have just have to know who's

1 on.

2 MR. PRICE: Thank you, Your Honor. It will
3 be fine for today.

4 THE COURT: All right. Okay. So now you
5 know my agenda. And can you please tell me where
6 things stand?

7 MS. KOENIG: Your Honor, we -- myself,
8 Mr. Price, Ms. Yates, Mr. Simon, and Mr. Judish were
9 able to talk on Tuesday afternoon as it relates to the
10 bullet points in the Court's October 16, 2020 order.
11 And we were hoping, I was hoping, that we would have
12 at least a partial stipulation to the Court by the
13 time of this hearing, but I understand the government
14 was in a meeting and didn't look at the language. So
15 I think we can represent to the Court that we have an
16 agreement about when Mr. Bishop graduated, the school
17 he graduated from, and the month and year of his
18 graduation date, and then the nature of his degree.

19 We also have some details about his
20 appointment and his probationary period and his
21 training period. What we don't have an agreement on
22 is the information sought in the third, fourth, and
23 fifth bullet points related to the training, the
24 general magistrate training information as to
25 warrants, the specific magistrate training concerning

1 geofence warrants, and then the number of warrants
2 signed by Magistrate Bishop, particularly geofence
3 warrants.

4 I think I will probably turn that over to
5 Ms. Yates at this point given that it was on their
6 representation that they wouldn't be providing those
7 three.

8 MS. YATES: That's correct, Your Honor. We
9 did reach the agreements that Ms. Koenig just
10 detailed, but those remaining bullet points as to the
11 training information and the number of warrants, as
12 the Court is aware, we did file a motion to quash, and
13 for the same reasons we didn't want to disclose that
14 information, we also don't wish to disclose this
15 information and would rest on the motion to quash on
16 that basis.

17 THE COURT: All right. Well, I'd like the
18 stipulation that you all are going to agree to, and
19 then I'll rule on the motion to quash, and we'll go
20 forward on that basis. And the sooner that you do
21 that, the better, obviously. So I'd love to see it
22 possibly by tomorrow. If it's just three things, it's
23 not going to take that long, I wouldn't think.

24 MS. KOENIG: Your Honor, I think we just have
25 to incorporate some language that Mr. Simon had kindly

1 emailed to me just a few minutes before we got on the
2 ZOOM call. So it will just take me a matter of
3 minutes. So I would assume within the hour we can
4 have it to the Court.

5 THE COURT: All right. Okay. So, second, I
6 did want to raise another sort of logistical issue.
7 Are you all planning to have witnesses and to
8 introduce exhibits in the motions?

9 MS. KOENIG: Speaking for the defense, yes,
10 Your Honor. We -- and the government knows this as
11 well. We intend to call two witnesses from Google,
12 the two individuals who have submitted the affidavits,
13 you know, on Google's behalf. And then we will have
14 our expert. We may have -- I can't say that we won't
15 have any other witnesses, but any other witnesses
16 would not be substantial witnesses in terms of length
17 of time or anything. We do anticipate having
18 exhibits. I had just been looking because I know we
19 previously had an exhibit and witness list submission
20 date, but that was for the hearing in July. And so if
21 the Court has a date for us to submit those, we would
22 appreciate that.

23 THE COURT: All right.

24 MR. SIMON: And likewise, Judge, we will have
25 both exhibits and witnesses for the November 17th

1 hearing. At this point we intend to simply call
2 Special Agent Jeremy D'Errico and Task Officer Josh
3 Hylton. I will introduce exhibits through them. And
4 everybody is available. So we intend to be there.

5 THE COURT: All right.

6 MS. KOENIG: And, Your Honor, the only issue
7 that I wanted to bring to the Court's attention is not
8 an actual issue at this moment, but we're hoping that
9 it doesn't become an issue, but because Mr. Price is
10 in New York, the state of New York has issued a travel
11 ban on people returning from Virginia. And just
12 actually an hour ago a lawyer from the Department of
13 Justice was barred from entering a courthouse in New
14 York because of his presence in Virginia. The ban is
15 contingent upon Virginia's COVID numbers. Once the
16 numbers are below 10 cases represented for every
17 hundred thousand, there will be no problem. But if we
18 get -- and the number, Mr. Price and I have been
19 watching this, and seeing it drop slightly. So we're
20 hoping it continues to do so.

21 If for some reason we get into a position
22 where the numbers are not -- that they would require
23 Mr. Price to be banned on returning back to New York,
24 we may need to let the Court know and figure out what
25 we can come up with.

1 THE COURT: Are you saying that he will come
2 or will not come?

3 MS. KOENIG: We haven't made, I think, a
4 decision yet, Your Honor, because, hopefully, we just
5 don't get to that point. We need him to be at the
6 hearing. It will be best for him to be physically
7 present, and so we're hoping that the numbers will get
8 down to where we don't need to ask for any change of
9 circumstances or perhaps even a continuance of the
10 hearing for that reason.

11 THE COURT: All right. I don't -- from what
12 I'm hearing, although things going down, they're going
13 to go back up. That's what I'm hearing. But,
14 obviously, we won't know until we know. And so I
15 don't know if you all want to consider different plans
16 like coming down early to meet a date or something.

17 MS. KOENIG: It's not so much, Your Honor,
18 the -- it's the travel. He would be banned from going
19 back to New York. And so that's -- I'm sorry. Go
20 ahead, Mike.

21 MR. PRICE: It's not that they wouldn't let
22 me back into the state, Your Honor. It's that I would
23 have to physically quarantine in my residence for two
24 weeks following my return, which would make it against
25 the law for me to do things like take my kids to

1 school or enter a courtroom here in New York. So
2 those are the sort of concerns that are at issue.

3 We certainly hope that the numbers go down
4 and continue to trend down. I think they were at 12.2
5 yesterday and are down to 12 out of 100,000 today. So
6 that's going in the right direction.

7 THE COURT: All right. Well, we can't
8 control what we can't control. So, obviously, I'm
9 sure you all are anxious, as am I, to keep things
10 moving along, but we are in a global pandemic, I
11 suppose.

12 All right. I would like the witness and
13 exhibit list ten days in advance of the hearing. And
14 so just go ahead and present those.

15 I appreciate actually having courtesy copies,
16 but you're not obligated to give me one. It just
17 means my law clerks are not doing that work for you
18 rather than you all. So I ask on their behalf.

19 All right. Is there anything else we need to
20 cover?

21 MS. KOENIG: Your Honor, I have one question.
22 I know with the -- I know different hearings are
23 happening in different courtrooms. Is Your Honor
24 intending that this hearing will happen in Your
25 Honor's courtroom just so we can think about the

1 physical logistics?

2 THE COURT: Well, it's a busy week in the
3 court, and so I am planning on having it here, but I
4 can't guarantee it. We have a series of jury trials
5 that are scheduled, and we need to use more than one
6 courtroom when we have jury trials scheduled, like we
7 need sometimes to use three. So it's just going to
8 depend.

9 MS. KOENIG: Thank you, Your Honor.

10 THE COURT: I'm sorry. I just gave you a
11 Saturday timeline, my clerk just told me, which was
12 not my intent. So why don't you give me the witness
13 and exhibit lists on -- I presume you prepared these
14 once; is that right?

15 MS. KOENIG: At least for the defendant, they
16 will have changed.

17 THE COURT: So I would appreciate having them
18 on November 6, then, which is actually, I think, 11
19 days in advance, but that will help me manage what is
20 turning out to be a very busy November.

21 All right?

22 MS. KOENIG: Thank you, Your Honor.

23 THE COURT: Okay. Mr. Price, I don't know if
24 we can figure out some way, for the hearing, to have
25 you appear by ZOOM, but it does strike me, though, as

1 awkward at best. So I'll just throw that out there on
2 our behalf and your behalf. Okay?

3 MR. PRICE: Thank you. We appreciate it.
4 Thank you.

5 THE COURT: Okay. Well, that's all I wanted
6 to cover. So I appreciate your joining us and we will
7 see you on the 17th.

8 MS. KOENIG: Thank you.

9 MR. SIMON: Thank you.

10 THE CLERK: The Court stands in recess.

11 (The proceedings were adjourned at 12:54 p.m.)
12

13 I, Diane J. Daffron, certify that the foregoing is
14 a correct transcript from the record of proceedings
15 in the above-entitled matter.

16 /s/
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18 _____
DIANE J. DAFFRON, RPR, CCR

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DATE
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